

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

In re:)	Chapter 11 Proceeding
)	
COMMERCIAL MORTGAGE & FINANCE CO.)	Case No. 08-73242
)	
Debtor.)	Hon. Manuel Barbosa
)	
)	Hearing Date: May 20, 2009
)	Hearing Time: 10:30 a.m.
)	

**NOTICE OF MOTION AND HEARING ON SPECIAL COUNSEL'S FIRST
AND FINAL APPLICATION FOR ALLOWANCE AND PAYMENT
OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

To: All Creditors and Parties in Interest

PLEASE TAKE NOTICE THAT on October 8, 2008, Commercial Mortgage & Finance Co. (the "Debtor") filed for Chapter 11 bankruptcy relief under title 11 of the Bankruptcy Code. On April 1, 2009, an Order was entered Authorizing the Employment and Retention of Thomas John Freethy and his law firm ("Freethy") as special counsel for the Debtor for certain discrete matters effective as of October 8, 2008 (Docket #236).

PLEASE TAKE FURTHER NOTICE that on April 29, 2009 the First and Final Application of Thomas John Freethy and the Law Offices of Thomas J. Freethy, Special Counsel for the Debtor, for Compensation (the "Application") requesting compensation sought as actual, reasonable and necessary in the amount of \$14,842.50 and expense reimbursement sought as actual, reasonable and necessary in the amount of \$433.80 for the period between October 8, 2008 and April 15, 2009.

PLEASE TAKE FURTHER NOTICE that the hearing on the Application is scheduled for May 20, 2009 at 10:30 a.m. in Courtroom 115, 211 South Court Street, Rockford, Illinois before the Honorable Manuel Barbosa, or any judge sitting in his stead.

Date: April 29, 2009

Respectfully submitted,

LAW OFFICES OF THOMAS J. FREETHY

By: /s/ Thomas John Freethy
One of Its Attorneys

CERTIFICATE OF SERVICE

I, Thomas J. Freethy, certify that I served the Notice of Motion and Hearing on First and Final Application of Thomas John Freethy and the Law Offices of Thomas J. Freethy, Special Counsel for the Debtor, for Compensation (“Notice of Motion”) on the persons listed on the Service List via United States mail postage prepaid by placing the same for delivery with the claims agent appointed in this case and by ECF filing and electronic transmittal as indicated, on April 29, 2009.

/s/ Thomas J. Freethy

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

In re:)	Chapter 11 Proceeding
)	
COMMERCIAL MORTGAGE & FINANCE CO.)	Case No. 08-73242
)	
Debtor.)	Hon. Manuel Barbosa
)	
)	Hearing Date: May 13, 2009
)	Hearing Time: 10:30 a.m.
)	

**FIRST AND FINAL APPLICATION OF THOMAS JOHN FREETHY AND THE
LAW OFFICES OF THOMAS J. FREETHY, SPECIAL COUNSEL FOR
THE DEBTOR, FOR COMPENSATION**

Special Counsel for the Debtor, Thomas John Freethy and the Law Offices of Thomas J. Freethy (“Freethy”), file the First and Final Application for Compensation (the “Application”) pursuant to §§ 328, 330 and 503(b)(1) of the United States Bankruptcy Code (11 U.S.C. §101 et.seq., hereinafter the “Bankruptcy Code”¹), Rule 2016 of the Federal Rules of Bankruptcy Procedure (hereinafter the “Bankruptcy Rules”), and Rule 5082-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Northern District of Illinois for allowance and payment of (i) compensation in the amount of \$14,842.50 for 119.50 hours of reasonable and necessary legal services that Freethy has rendered for the period between October 9, 2008 and April 15, 2009 (the “Application Period”) to the Debtor (“Fees”); (ii) the reimbursement of the actual and necessary expenses that Freethy has incurred (the “Expenses”) in the amount of \$433.80 during the Application Period; and (iii) immediate payment of allowed fees and expenses from the Debtor’s accounts.

In support of the Application, Freethy states:

¹ All references in this Application to any “§” shall be a reference to that section of the Bankruptcy Code

BACKGROUND

1. On October 8, 2008 (the “Petition Date”), the Debtor filed with this Court its Voluntary Petition for relief under the Bankruptcy Code.
2. Pursuant to §§ 1107(a) and 1108, the Debtor continues to operate its businesses and manage its financial affairs as a debtor in possession. The United States Trustee has appointed an Official Committee of Unsecured Creditors. No trustee or examiner has been appointed in this case.
3. The Debtor is a corporation, organized and existing under the laws of the state of Illinois and headquartered in Rockford, Illinois. The Debtor has been in operation since 1929 and has been an integral part of the Rockford business community since that time. It sells participations in mortgages to local individuals. The money thus generated is used to fund loans, and the Debtor would share the interest generated with its customers. The Debtor also offered “Negotiable Promissory Notes” to Illinois residents, which are neither guaranteed nor is the issuance thereof regulated by any state or federal agency, providing purchasers with interest rates generally higher than interest earned by money market certificates. The Debtor also develops land into residential subdivisions.
4. The nation’s ongoing financial challenges precipitated the filing of this case. During the period immediately prior to the bankruptcy filing, a substantial number of the holders of promissory notes closed their notes early causing a serious drain on available cash. On October 6, 2008, one of the holders of the Debtor’s Negotiable Promissory Notes obtained a temporary restraining order blocking the Debtor’s ability to conduct business. Due to the closing of accounts, the temporary restraining order and general financial

difficulties, the Debtor determined that it would be unable to fund operations and financial obligations without resort to the protections provided in this Court.

5. The Debtor filed its chapter 11 case, so it could implement its business plan and control the restructuring of its business operations through a plan of liquidation.

SELECTION OF ATTORNEYS

6. The Debtor employed Freethy as one of its outside attorneys prior to the filing of this bankruptcy case. The Debtor requested that Freethy continue as its legal counsel on certain discrete matters as outlined herein during the pendency of this case and retained Freethy generally and Thomas John Freethy specifically for that purpose.
7. By an order entered on the docket on April 1, 2009, the Bankruptcy Court authorized Freethy's retention effective as of October 8, 2008 (Docket #236), pursuant to §§327 and 1103.
8. This is Freethy's first and final Application for the payment of its fees and expenses and Freethy submits this Application pursuant to the Federal Rules of Bankruptcy Procedure and all applicable local rules.
9. Attached hereto as **Exhibit A** is a schedule summarizing the number of hours worked and the total dollars billed for services during the Application Period. The fees and expenses sought for the Application Period are included as part of this Application and in the summary. The detailed records with respect to such fees are attached hereto as **Group Exhibit B**. For this Application Period, Freethy has incurred a total of \$14,842.50 for legal services and \$433.80 for actual and necessary out-of-pocket expenses incurred on behalf of the Debtor.

PROFESSIONAL SERVICES RENDERED

10. Freethy has assisted the Debtor in the performance of its duties pursuant to §§1107 and 1108 including advising the Debtor regarding certain litigation matters.
11. During the Application Period, Freethy billed a total of 119.50 hours.
12. To assist the Court, creditors and other parties in interest to evaluate this fee application and determine the reasonableness of the requested compensation, Freethy assigned a matter number for each of the five categories of services. Exhibit A attached hereto describes each activity or service performed; and states the number of hours (in increments of one-tenth of an hour) spent providing the services.

SERVICES RENDERED BY MATTER CATEGORIES

13. The professional services that Freethy rendered are grouped into titled categories of the subject matters described below.

a. Category 1 – Rockford Title Lawsuit

Time spent in this category relates to the investigation and prosecution of the Debtor's claim against Rockford Title Agency relating to the agency's improper distribution of funds to one of the Debtor's borrowers. The blended hourly rate incurred by Freethy was \$125.56.

Professional/Position	Hours	Rate	Fee
Thomas Freethy	11.00	\$145.00	\$1,595.00
Rose Loveland (Paralegal)	2.50	\$40.00	\$100.00

b. Category 2 - Services Related to 1327 Greenwood

Time spent in this category relates to the investigation and prosecution of the Debtor's foreclosure of its lien on 1327 Greenwood, Rockford Illinois and collection of the debt owing by the owners of such property. The blended hourly rate incurred by Freethy was \$112.10.

Professional/Position	Hours	Rate	Fee
Thomas Freethy	14.50	\$145.00	\$2,102.50
Rose Loveland (Paralegal)	3.50	\$40.00	\$140.00

c. Category 3 – Services Related to 4775 Linden Road

Time spent in this category relates to the investigation and prosecution of the Debtor's foreclosure of its lien on 4775 Linden Road, Rockford Illinois and collection of the debt owing by the owners of such property. The blended hourly rate incurred by Freethy was \$108.91.

Professional/Position	Hours	Rate	Fee
Thomas Freethy	10.50	\$145.00	\$1,522.50
Rose Loveland (Paralegal)	5.50	\$40.00	\$220.00

d. Category 4 – Services Plat 2 Cross Creek

Time spent in this category relates to the investigation and prosecution of the Debtor's foreclosure of its lien on Plat 2 Cross Creek at Inverness and collection of the debt owing by the owners of such property. The blended hourly rate incurred by Freethy was \$115.38.

Professional/Position	Hours	Rate	Fee
Thomas Freethy	14.00	\$145.00	\$2,030.00
Rose Loveland (Paralegal)	5.50	\$40.00	\$220.00

a. Category 5 – 3413 Colony Bay

Time spent in this category relates to the investigation and prosecution of the Debtor's foreclosure of its lien on 3413 Colony Bay, Rockford, Illinois and collection of the debt owing by the owners of such property. The blended hourly rate incurred by Freethy was \$107.74.

Professional/Position	Hours	Rate	Fee
Thomas Freethy	10.00	\$145.00	\$1,486.25

Rose Loveland (Paralegal)	5.50	\$40.00	\$220.00
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a. Category 6 – 102 Callaway

Time spent in this category relates to the investigation and prosecution of the Debtor's foreclosure of its lien on 102 Callaway Cove, Loves Park, Illinois and collection of the debt owing by the owners of such property. The blended hourly rate incurred by Freethy was \$142.08.

Professional/Position	Hours	Rate	Fee
Thomas Freethy	19.00	\$145.00	\$2,755.00
Rose Loveland (Paralegal)	0.50	\$40.00	\$20.00

a. Category 6 – 109 Callaway

Time spent in this category relates to the investigation and prosecution of the Debtor's foreclosure of its lien on 109 Callaway Cove, Loves Park, Illinois and collection of the debt owing by the owners of such property. The blended hourly rate incurred by Freethy was \$119.33.

Professional/Position	Hours	Rate	Fee
Thomas Freethy	17.00	\$145.00	\$2,465.00
Rose Loveland (Paralegal)	5.50	\$40.00	\$220.00

ACTUAL AND NECESSARY EXPENSES

14. It is Freethy's policy to charge its clients for certain non-overhead expenses incurred in connection with the case that would not have been incurred except for representation of that particular client. It is also Freethy's policy to charge its clients only the amount actually incurred by Freethy in connection with such items, which include, but are not limited to, filing fees, mail charges and photocopying charges at ten cents per copy.

15. The reimbursement of expenses requested by Freethy are those expenses normally billed to the firm's clients in other cases. Billing for these expenses is the standard practice for the law firms involved with providing advice to unsecured creditors Debtors. The expenses and disbursements for which allowance is set forth by date and description on **Group Exhibit B** attached hereto, and total \$433.80.

STANDARDS FOR APPROVAL OF APPLICATION

16. §330(a) sets forth the applicable standards for compensation of retained professionals.
17. The rates charged by Freethy in this Application are the usual and customary hourly rates charged by Freethy to other clients. These rates are comparable with, or lower than, the rates generally charged by other Rockford law firms that provide similar services in connection with representation of Debtors. The amounts requested are fair and reasonable given (a) the complexity of this case; (b) the time expended; (c) the nature and extent of the services rendered; (d) the value of such services; and (e) the costs of comparable services other than in a case under the Bankruptcy Code.
18. Without the efforts of Freethy, any recovery for unsecured creditors would be extremely unlikely.
19. The Debtor submits that an award of compensation to Freethy, as requested, is appropriate in the circumstances of this case.
20. Each of the professionals in this case is affiliated with Freethy for this and other matters. No agreement exists between Freethy and any third party for the sharing of compensation received by Freethy in connection with this case, except as allowed by United States §504 of the Bankruptcy Code and Rule 2016 of the federal Rules of Bankruptcy

Procedure with respect to the sharing of compensation among the partners, managers and employees of Freethy.

21. This is Freethy's first and final fee Application in this case. Previous compensation has not been sought.

NOTICE

22. Pursuant to Rule 2002(a)(6) of the Bankruptcy Rules, Freethy has provided notice of this Application and the hearing on the Application along with a copy of this final fee application to the twenty largest creditors, counsel for the Office of the United States Trustee, counsel for the Committee and on all counsel appearing or requesting notice of the filing of pleading in this case. Given the nature of the relief sought, the Debtor believes that such notice is appropriate in these circumstances.

NO PRIOR RELIEF

23. No prior application for the relief requested herein has been made to this or any other court.

WHEREFORE, Law Offices of Thomas J. Freethy respectfully requests that the Court enter an order:

- a. granting Thomas John Freethy and the Law Offices of Thomas J. Freethy ("Freethy") an allowance of final compensation for professional fees in the amount of \$14,842.50 incurred during this Application Period;
- b. granting Freethy an allowance of expense reimbursement in the amount of \$433.80 incurred during this Application Period;
- c. entry of an order authorizing and directing payment of the allowed fees and costs by the Debtor; and

d. granting such other and further relief as may be just.

Date: April 21, 2009

Respectfully submitted,

LAW OFFICES OF THOMAS J. FREETHY

By: /s/ Thomas John Freethy
One of Its Attorneys

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